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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,770	10/30/2000	Tara Lynn Alvarez	1-3	6941

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Docket Administrator Rm 3C-512  
Lucent Technologies Inc  
600 Mountain Avenue  
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Murray Hill, NJ 07974-0636

EXAMINER
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HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/699,770

Applicant(s)

ALVAREZ ET AL.

Examiner

Clemence Han

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The second document in the IDS has wrong patent number. The correct US patent number is 5,634,006. Appropriate correction is required.

### ***Specification***

2. The disclosure is objected to because of the following informalities: There is an typographical error in page 7 line 27. According to Figure 1, hosts are 102 and 104. Appropriate correction is required.

### ***Claim Objections***

3. Claim 9 is objected to because of the following informalities: "host equipment network" seems to be a typographical error of "host equipment". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claim 1-5, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Tokunaga et al. (US Pub. 2002/0027923).

In regarding to claim 1, Tokunaga teaches a method for transmitting DSI and NDSI over a communication link of a communication network, the method comprising the steps of: transmitting fragmented NDSI in accordance with a network protocol where the fragmenting is based on parameters of received DSI [0163] and is performed in accordance with a network layer protocol [0051].

In regarding to claim 2, Tokunaga teaches a method of calculating a fragmentation requirement for each received initial DSI; reviewing the fragmentation requirements of the received DSI after a new' DSI requirement was

calculated or after transmission of a DSI was terminated to determine a fragmentation requirement that is most restrictive; and altering the fragmenting of NDSI to comply with the most restrictive fragmentation requirement [0157], [0163].

In regarding to claim 3, Tokunaga teaches the step of transmitting DSI in accordance with required timing relationships [0044] and transmitting NDSI in a non-fragmented manner when there are no DSI to be transmitted [0159].

In regarding to claim 4, Tokunaga teaches the network protocol is an OSI-based layer 3 protocol [0042], [0051].

In regarding to claim 5, Tokunaga teaches the fragmenting based on information rate of the communication link [0059].

In regarding to claim 7, Tokunaga teaches an apparatus for transmitting DSI and NDSI over a communication link of a communication network where the apparatus fragments the NDSI in accordance with a network layer protocol [0051] and based on parameters of received DSI [0163].

In regarding to claim 9, Tokunaga teaches an apparatus as host equipment where such host equipment is coupled to a packet based communication network and to an access network (Figure 15).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tokunaga et al. in view of Schwartz (US Patent 4,805,208). Tokunaga teaches the parameters of the received DSI comprising sample rate of DSI [0040], number of communication channels included in the DSI [0063], amount of overhead information included in the DSI and amount of subscriber information in the DSI [0042]. Tokunaga, however does not teach about the information compression. Schwartz teaches the information compression 2. It would have been obvious to one skilled in the art to include in Tokunaga's parameters the information compression as taught by Schwartz in order to calculate more accurate packet length.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tokunaga et al. in view of Keenan et al. (US Patent 6,570,890). Tokunaga teaches the apparatus as IP gateway (Figure 15). Tokunaga, however, does not teach the apparatus as IAD. Keenan teaches an apparatus as IAD 44. It would have been

obvious to one skilled in the art to use Tokunaga for an IAD as taught by Keenan in order to provide service to more than one subscribers.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to the fragmentation in general.

U.S. Patent 6,370,583 to Fishler et al.

U.S. Patent 6,587,443 to Dutta

U.S. Patent 6,094,435 to Hoffman et al.

U.S. Patent 5,497,371 to Ellis et al.

U.S. Patent 5,790,522 to Fichou et al.

U.S. Pub. 2002/0051466 to Bruckman

U.S. Pub. 2003/0039249 to Basso et al.

U.S. Pub. 2003/0031114 to Terry et al.


U.S. Pub. 2002/0136217 to Christensen

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (703) 305-0372. The examiner can normally be reached on Monday-Friday 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (703) 308-6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C.H.  
Clemence Han  
Examiner  
Art Unit 2665

  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600